

MONTANA LEGISLATIVE HISTORY

Chapter 279 1984

Bill H 273 S _____ Original bill & history ✓C

H. Committee on Education & Cultural Res. S. Committee on Education & Cultural Res.

Hearing Date(s) 2-2 _____ C

Hearing Date(s) 3-9 _____ C

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_____ C

Date Out 2-2 _____ C

not 2-2

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HOUSE FINAL STATUS

3/09 TRANSMITTED TO GOVERNOR
3/13 SIGNED BY GOVERNOR
CHAPTER NUMBER 73 EFFECTIVE DATE: 10/01/87

HB 270 INTRODUCED BY RAMIREZ, ET AL.
CREATING INFRASTRUCTURE TRUST FUND

1/17 INTRODUCED
1/17 REFERRED TO TAXATION
1/17 FISCAL NOTE REQUESTED
1/20 FISCAL NOTE RECEIVED
2/03 HEARING
2/13 TABLED IN COMMITTEE

HB 271 INTRODUCED BY RAMIREZ, ET AL.
AMENDING CONSTITUTION TO ALLOCATE 25 PERCENT OF COAL
TAX TO INFRASTRUCTURE

1/17 INTRODUCED
1/17 REFERRED TO TAXATION
1/17 FISCAL NOTE REQUESTED
1/20 FISCAL NOTE RECEIVED
2/03 HEARING
2/13 TABLED IN COMMITTEE

HB 272 INTRODUCED BY RAMIREZ, ET AL.
AUTHORIZING COAL TAX BONDS FOR INFRASTRUCTURE

1/17 INTRODUCED
1/17 REFERRED TO TAXATION
1/17 FISCAL NOTE REQUESTED
1/20 FISCAL NOTE RECEIVED
2/03 HEARING
2/13 TABLED IN COMMITTEE

HB 273 INTRODUCED BY NELSON
ALLOW OFFICE OF PUBLIC INSTRUCTION TO ADOPT RULES
FOR TUITION FOR SPECIAL EDUCATION PUPILS
BY REQUEST OF OFFICE OF PUBLIC INSTRUCTION

1/19 INTRODUCED
1/19 REFERRED TO EDUCATION & CULTURAL RESOURCES
2/02 HEARING
2/02 COMMITTEE REPORT--BILL PASSED
2/04 2ND READING PASSED 99 0
STATEMENT OF INTENT ADOPTED
2/06 3RD READING PASSED 97 0

TRANSMITTED TO SENATE
2/10 REFERRED TO EDUCATION & CULTURAL RESOURCES
3/09 HEARING
3/12 COMMITTEE REPORT--BILL CONCURRED
3/17 2ND READING CONCURRED 50 0
3/19 3RD READING CONCURRED 49 0

RETURNED TO HOUSE
3/23 SIGNED BY SPEAKER
3/24 SIGNED BY PRESIDENT

3/25 TRANSMITTED TO GOVERNOR
3/29 SIGNED BY GOVERNOR
CHAPTER NUMBER 279 EFFECTIVE DATE: 10/01/87

1 House BILL NO. 273
 2 INTRODUCED BY Nelson
 3 BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE
 6 SUPERINTENDENT OF PUBLIC INSTRUCTION TO ADOPT RULES FOR THE
 7 CALCULATION OF TUITION FOR SPECIAL EDUCATION PUPILS; AND
 8 AMENDING SECTIONS 20-5-305 AND 20-5-312, MCA."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 20-5-305, MCA, is amended to read:
 12 "20-5-305. Elementary tuition rates. (1) Whenever a
 13 pupil of an elementary district has been granted approval to
 14 attend a school outside of the district in which he resides,
 15 under the provisions of 20-5-301 or 20-5-302, such district
 16 shall pay tuition to the elementary district where the pupil
 17 attends school. ~~or~~ Except as provided in subsection (2), the
 18 basis of the rate of tuition shall be determined by the
 19 attended district. The rate of tuition shall be determined
 20 by:
 21 (1)(a) totaling the actual expenditures from the
 22 district general fund, the debt service fund, and, if the
 23 pupil is a resident of another county, the retirement fund;
 24 (2)(b) dividing the amount determined in subsection
 25 (1)(a) ~~above~~ by the ANB of the district for the current

1 fiscal year, as determined under the provisions of 20-9-311;
 2 and
 3 (3)(c) subtracting the total of the per-ANB amount
 4 allowed by 20-9-316 through 20-9-321 that represents the
 5 foundation program as prescribed by 20-9-303 plus the
 6 per-ANB amount determined by dividing the state financing of
 7 the district permissive levy by the ANB of the district,
 8 from the amount determined in subsection (2)-above (1)(b).
 9 (2) The tuition for a full-time elementary special
 10 education pupil must be determined under rules adopted by
 11 the superintendent of public instruction for the calculation
 12 of elementary tuition for full-time elementary special
 13 education pupils as designated in 20-9-311 for funding
 14 purposes."
 15 Section 2. Section 20-5-312, MCA, is amended to read:
 16 "20-5-312. Reporting, budgeting, and payment for high
 17 school tuition. (1) ~~At~~ Except as provided in subsection (2),
 18 at the close of the school term of each school fiscal year,
 19 the trustees of each high school district shall determine
 20 the rate of tuition for the current school fiscal year by:
 21 (a) totaling the actual expenditures from the district
 22 general fund, the debt service fund, and, if the pupil is a
 23 resident of another county, the retirement fund;
 24 (b) dividing the amount determined in subsection
 25 (1)(a) above by the ANB of the district for the current

1 fiscal year, as determined under the provisions of 20-9-311;
2 and

3 (c) subtracting the total of the per-ANB amount
4 allowed by 20-9-316 through 20-9-321 that represents the
5 foundation program as prescribed by 20-9-303 plus the
6 per-ANB amount determined by dividing the state financing of
7 the district permissive levy by the ANB of the district,
8 from the amount determined in subsection (1)(b) above.

9 (2) The tuition for a full-time high school special
10 education pupil must be determined under rules adopted by
11 the superintendent of public instruction for the calculation
12 of tuition for full-time high school special education
13 pupils as designated in 20-9-311 for funding purposes.

14 ~~(2)(3)~~ Before July 15, the trustees shall report to
15 the county superintendent of the county in which the
16 district is located:

17 (a) the names, addresses, and resident districts of
18 the pupils attending the schools of the district under an
19 approved tuition agreement;

20 (b) the number of days of school attended by each
21 pupil;

22 (c) the amount, if any, of each pupil's tuition
23 payment that the trustees, in their discretion, shall have
24 the authority to waive; and

25 (d) the rate of current school fiscal year tuition, as

1 determined under the provisions of this section.

2 ~~(3)(4)~~ When the county superintendent receives a
3 tuition report from a district, he shall immediately send
4 the reported information to the superintendent of each
5 district in which the reported pupils reside.

6 ~~(4)(5)~~ When the district superintendent receives a
7 tuition report or reports for high school pupils residing in
8 his district and attending an out-of-district high school
9 under approved tuition agreements, he shall determine the
10 total amount of tuition due such out-of-district high
11 schools on the basis of the following per-pupil schedule:
12 the rate of tuition, number of pupils attending under an
13 approved tuition agreement, and other information provided
14 by each high school district where resident district pupils
15 have attended school.

16 ~~(5)(6)~~ The total amount of the high school tuition,
17 with consideration of any tuition waivers, for pupils
18 attending a high school outside the county of residence
19 shall be financed by the county basic special tax for high
20 schools as provided in 20-9-334. In December, the county
21 superintendent shall cause the payment by county warrant of
22 at least one-half of the high school tuition obligations
23 established under this section out of the first moneys
24 realized from the county basic special tax for high schools.
25 The remaining obligations must be paid by June 15 of the

1 school fiscal year. The payments shall be made to the county
2 treasurer of the county where each high school entitled to
3 tuition is located. The county treasurer shall credit such
4 tuition receipts to the general fund of the applicable high
5 school district, and the tuition receipts shall be used in
6 accordance with the provisions of 20-9-141.

7 ~~†6†~~(7) For pupils attending a high school outside
8 their district of residence but within the county of
9 residence, the total amount of the tuition, with
10 consideration of any tuition waivers, must be paid during
11 the ensuing school fiscal year. The trustees of the sending
12 high school district shall include the tuition amount in the
13 tuition fund of the preliminary and final budgets. This
14 budgeted tuition amount is not subject to the budget
15 adjustment provisions of 20-9-132. The county superintendent
16 shall report the net tuition fund levy requirement for each
17 high school district to the county commissioners on the
18 second Monday of August, and a levy on the district shall be
19 made by the county commissioners in accordance with
20 20-9-142. This levy requirement shall be calculated by
21 subtracting from the total expenditure amount authorized in
22 the final tuition fund budget the sum of the cash balance in
23 the tuition fund at the end of the immediately preceding
24 school fiscal year plus any other anticipated money that may
25 be realized in the tuition fund. The trustees shall pay by

1 warrants drawn on the tuition fund the tuition amounts owed
2 to each district included in the county superintendent's
3 notification. Payments shall be made whenever there is a
4 sufficient amount of cash available in the tuition fund but
5 no later than the end of the school fiscal year for which
6 the budget is adopted. However, if the trustees of either
7 the sending or receiving high school feel the transfer
8 privilege provided by this subsection is being abused they
9 may appeal to the county superintendent of schools who shall
10 hold a hearing and either approve or disapprove the
11 transfer."

-End-

STATUS SHEET

50th LEGISLATIVE SESSION

EDUCATION

COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
186	1/14/87	1/28/87		1/28/87							
198	1/14/87	1/28/87		1/28/87							
237	1/16/87	2/2/87					2/4/87				
250	1/16/87	2/18/87	2/20/87	tabled							
258	1/17/87	1/30/87	2/11/87	tabled							
263	1/17/87	2/2/87		2/4/87							
273	1/19/87	2/2/87		2/2/87							
279	1/19/87	1/28/87	2/13/87	tabled							
294	1/19/87	1/30/87		2/20/87							
295	1/20/87	2/9/87	2/13/87	tabled							
303	1/20/87	2/4/87		2/13/87							
324	1/20/87	2/6/87	2/16/87	tabled							
333	1/20/87	1/28/87	2/16/87	tabled							
340	1/21/87	2/6/87				2/16/87					

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The ninth meeting of the Education and Cultural Resources Committee was called to order by Chairman Jack Sands, on February 2, 1987, at 1:00 p.m., in Room 312-D of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 263:

REP. BOB BACHINI, House District No. 14, sponsor of the bill, stated the bill merely changes one word from "shall" to "may". He said the reason the bill was submitted was that some school districts do charge for non-public school children to ride a bus and some do not at the present time. If there is any additional cost to the school district, there should be a charge.

There were no further proponents to the bill.

OPPONENTS:

ERIC FEAVER, President, Montana Education Association, stated he was opposed to this piece of legislation. He thinks it is appropriate for public institutions to charge those who do not use the public institution for their services.

QUESTIONS FROM THE COMMITTEE:

A question and answer period followed concerning whether the school district would have to pay additional liability insurance. It was stated they wouldn't. The fact that some school districts already provide transportation to those non-public students, with charges ranging from \$1 to \$50 was also discussed.

REP. BACHINI closed by saying he thought the people who used private schools were paying a fair share of the taxes; that he was not asking the school districts to go out of their way or add new buses etc.; and that the bill was giving the local governing body the option to make the decision in the matter.

CONSIDERATION OF HOUSE BILL NO. 273:

REP. RICHARD NELSON, House District No. 6, stated the bill was being presented at the request of the OPI and deals with allowing the superintendent to determine tuition for special education students who are coming from out of the district to participate in particular education programs.

Education and Cultural
Resources Committee
February 2, 1987
Page Two

PROPOSERS:

GAIL GRAY, Director of Special Education, OPI, read her prepared statement in support of HB # 273, see EXHIBIT #1.

CHRIS VOLINKATY, Lobbyist for the Developmentally Disabled people of Montana, stated she would like to go on record in support of the bill for all the reasons listed by Gail Gray.

MARILYN PIERSON, Education Specialist with OPI, said this bill allows for a fair calculation of tuition for special education students who attend the school outside their home district.

JESS LONG, Executive Secretary of School Administrators of Montana rose in support of HB # 273.

OPPOSERS: There were none.

QUESTIONS FROM THE COMMITTEE:

A lengthy discussion followed regarding the procedure for payment of special ed students.

REP. NELSON noted there was a statement of intent that he would like to have included as an amendment to the bill and stated he closed.

CONSIDERATION OF HOUSE BILL NO. 237:

REP. DAN HARRINGTON, House District No. 68, sponsor of the bill, stated that HB # 237 would provide that a school district may not conduct pupil-instruction days prior to Labor Day unless granted approval by the superintendent of public instruction. He said that not having school begin before Labor Day week-end would aid the tourist industry in the State of Montana.

PROPOSERS:

PHIL STROPE, Lobbyist for the Montana Inn Keepers Association rose in support of the legislation. He referred to a study that had been made in terms of the number of sunny days for the Flathead Lake region.

OPPOSERS:

JESS LONG, Executive Secretary of School Administrators of

Education and Cultural
Resources Committee
February 2, 1987
Page Three

Montana stated he opposed the bill because it is unnecessary legislation. The local school board currently has the option of setting the beginning of their school calendar.

BOB ANDERSON, School Boards Association, opposed HB # 237. He stated that anyone can approach their local school board and say it is in the best interest of the community to open school after Labor Day.

CHRISS MATTOCKS, Superintendent of Schools in Cut Bank, rose in opposition to the bill. He stated that it is a local control issue.

JUDY FENTON, elementary school principal, and President of elementary school principals rose in opposition to the bill.

QUESTIONS FROM THE COMMITTEE:

A lengthy discussion was held regarding the pros and cons of starting school before Labor Day.

REP. HARRINGTON closed by stating he is a real staunch backer of education and would never introduce a bill that he felt would discriminate against the control of the local districts, but the state should recognize that the tourist industry is a major part of our economy and the committee should look at the benefit to that industry.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL NO. 273:

REP. NELSON moved the statement of intent on HB # 273. The question was called, the motion CARRIED unanimously. REP. NELSON then moved DO PASS on HB # 273; the motion CARRIED unanimously. See EXHIBIT # 2.

ACTION ON HOUSE BILL NO. 39:

ANDREA MERRILL, legislative council member, handed out the amendments that the education subcommittee had adopted, see EXHIBIT # 3.

REP. WILLIAMS moved that HB # 39 DO PASS. REP. EUDAILY moved that the amendments DO PASS. He explained that the 1st, 2nd and 3rd amendments were technical amendments; that the 4th amendment was to solidify the K-12 vocational education program. He noted on page 30, line 21, the subcommittee had voted to strike 3 mills county wide and insert 4½ mills

DAILY ROLL CALL

EDUCATION AND CULTURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date FEB 2, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. JACK SANDS, CHAIRMAN	✓		
REP. RICHARD NELSON, VICE CHRMN.	✓		
REP. FRITZ DAILY	✓		
REP. RALPH EUDAILY	✓		
REP. WILLIAM GLASER	✓		
REP. DAN HARRINGTON	✓		
REP. NANCY KEENAN	✓		
REP. ROLAND KENNERLY	✓		
REP. EARL LORY	✓		
REP. JOHN MERCER	✓		
REP. GERALD NISBET	✓		
REP. JOHN PHILLIPS	✓		
REP. TED SCHYE	✓		
REP. BARRY STANG	✓		
REP. TONIA STRATFORD	✓		
REP. CHARLES SWYSGOOD	✓		
REP. FRED THOMAS	✓		
REP. MEL WILLIAMS	✓		

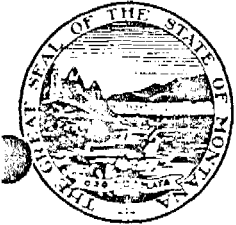


EXHIBIT # 1

DATE 2-2-87

HB # 273

OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Ed Argenbright
Superintendent

February 2, 1987

To: Representative Jack Sands, Chairman
Education and Cultural Resources Committee

From: Gail Gray
Director of Special Education

Re: House Bill 273

Full-time special education students are those who spend less than half their time in the regular program and the balance of their time in the special education program. (20-9-311(2)MCA). These students do not generate ANB (average number belonging), the basic funding unit for state education funds.

Handicapped students cost more to educate than do nonhandicapped students. This is particularly true for students who are considered full-time special education students. Due to sparsity of population and specialized needs of handicapped students, some districts find it more appropriate in terms of program and cost efficiency to place handicapped students in districts other than their own. At this time, the statutes which include calculation of tuition require that at the elementary level if one student is charged tuition, all must be charged and all are charged the same amount. This amount is determined by a statutory formula. At the high school level, trustees of the receiving district may waive a portion of the regular tuition but the statute does not allow trustees to add additional costs for a particular student's needs. This is further complicated by the fact that full-time special education students do not generate ANB for the school of attendance. The result is that they have special needs that are more expensive than nonhandicapped students and they do not even generate the basic state education funding.

In times of fiscal constraint, these situations cause districts to question the wisdom of accepting full-time special education students who are not residents of their district. To encourage the continual acceptance of out-of-district students, this bill proposes that the Superintendent of Public Instruction be allowed the authority to promulgate rules for the calculation of elementary and high school tuition for full-time elementary and high school students. These formulas would be the sum of the regular tuition and the excess costs of educating the students in the proposed district of service. The excess costs would be those costs not paid by state or federal special education funds.

We are most interested in having appropriate special education programs that are cost efficient. This has been done in communities like Kalispell, Great Falls and Billings. These districts may not continue to accept students from districts other than their own if there is no mechanism to recover the excess costs of the program. The cost of starting a special education program for moderately and severely handicapped students in very small schools is prohibitive.

We would urge your careful consideration of this bill.

GG:mf

EXHIBIT # 2
DATE 2-2-87
HB # 273

50th Legislature

LC 1132

STATEMENT OF INTENT

HA Bill No. 273

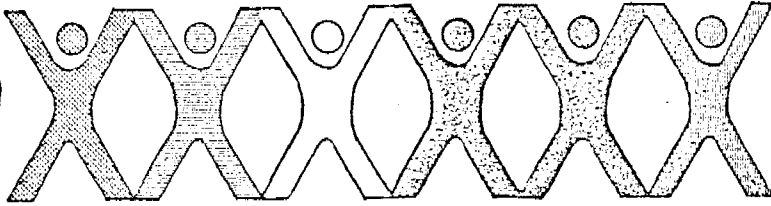
A statement of intent is required for this bill because it allows the superintendent of public instruction to adopt rules for the calculation of tuition for full-time special education pupils. The legislature recognizes that special education pupils are not considered in the count of average number belonging (ANB) for a district and generate more costs than the regular ANB. Therefore, such pupils necessitate a more individualized calculation for determining education costs that can be used for tuition purposes.

It is the intent of the legislature that the superintendent of public instruction adopt rules that:

(1) help school districts determine the cost of education for various types of special education pupils for tuition purposes; and

(2) consider a district's excess costs beyond what is funded by state and federal sources.

Montana
SPECIAL EDUCATION ADVISORY PANEL



OFFICE OF PUBLIC INSTRUCTION • ED ARGENBRIGHT, SUPERINTENDENT

January 22, 1987

TO: Members of Education Committee
State Capitol
Helena, Montana 59620

FROM: Dr. Linda Christensen, Chairperson *LC*
Montana Special Education Advisory Committee
Office of Public Instruction
State Capitol
Helena, Montana 59620

A bill for an act entitled: "An Act to Modify the Calculations of Elementary and High School Tuition For Full-Time Special Education Students By Amending Section 20-5-305, MCA."

This bill allows for a fair calculation of tuition for special education students who attend a school outside their home district. The Montana Special Education Advisory Panel fully endorses this bill and urges your support.

EXHIBIT # 7
DATE 2-2-87
HB # 273

VISITORS' REGISTER

EDUCATION AND CULTURAL RESOURCES COMMITTEE

BILL NO. HOUSE BILL NO. 273

DATE FEBRUARY 2, 1987

SPONSOR REP. NELSON

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Judith Fonten	SAM/MAESP	✓	
Jean W. Long	SAM	✓	
Lal Long	OP2	✓	
CLAUDIA MORLEY	DEACONESS Home	✓	
Cris Voluntary	DTJ	✓	
Eric Leaver		✓	
Maureen Pearson	Spec. Educ. Advisory Council	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

FEBRUARY 2,

1937

Mr. Speaker: We, the committee on EDUCATION AND CULTURAL RESOURCES

report HOUSE BILL NO. 273

☒ do pass

☐ do not pass

☐ be concurred in

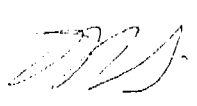
☐ be not concurred in

☐ as amended

☐ statement of intent attached

Rep. Jack Sands,

Chairman


FIRST

WHITE

reading copy (_____)
color

1 STATEMENT OF INTENT

2 HOUSE BILL 273

3

4 A statement of intent is required for this bill because
5 it allows the superintendent of public instruction to adopt
6 rules for the calculation of tuition for full-time special
7 education pupils. The legislature recognizes that special
8 education pupils are not considered in the count of average
9 number belonging (ANB) for a district and generate more
10 costs than the regular ANB. Therefore, such pupils
11 necessitate a more individualized calculation for
12 determining education costs that can be used for tuition
13 purposes.

14 It is the intent of the legislature that the
15 superintendent of public instruction adopt rules that:

16 (1) help school districts determine the cost of
17 education for various types of special education pupils for
18 tuition purposes; and

19 (2) consider a district's excess costs beyond what is
20 funded by state and federal sources.

HOUSE BILL NO. 273

INTRODUCED BY NELSON

BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO ADOPT RULES FOR THE CALCULATION OF TUITION FOR SPECIAL EDUCATION PUPILS; AND AMENDING SECTIONS 20-5-305 AND 20-5-312, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-305, MCA, is amended to read:

"20-5-305. Elementary tuition rates. (1) Whenever a pupil of an elementary district has been granted approval to attend a school outside of the district in which he resides, under the provisions of 20-5-301 or 20-5-302, such district shall pay tuition to the elementary district where the pupil attends school. on Except as provided in subsection (2), the basis of the rate of tuition shall be determined by the attended district. The rate of tuition shall be determined by:

(1)(a) totaling the actual expenditures from the district general fund, the debt service fund, and, if the pupil is a resident of another county, the retirement fund;

(2)(b) dividing the amount determined in subsection (1)(a) above by the ANB of the district for the current

fiscal year, as determined under the provisions of 20-9-311; and

(3)(c) subtracting the total of the per-ANB amount allowed by 20-9-316 through 20-9-321 that represents the foundation program as prescribed by 20-9-303 plus the per-ANB amount determined by dividing the state financing of the district permissive levy by the ANB of the district, from the amount determined in subsection (2)-above (1)(b).

(2) The tuition for a full-time elementary special education pupil must be determined under rules adopted by the superintendent of public instruction for the calculation of elementary tuition for full-time elementary special education pupils as designated in 20-9-311 for funding purposes."

Section 2. Section 20-5-312, MCA, is amended to read:

"20-5-312. Reporting, budgeting, and payment for high school tuition. (1) At Except as provided in subsection (2), at the close of the school term of each school fiscal year, the trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the actual expenditures from the district general fund, the debt service fund, and, if the pupil is a resident of another county, the retirement fund;

(b) dividing the amount determined in subsection (1)(a) above by the ANB of the district for the current

1 fiscal year, as determined under the provisions of 20-9-311;
2 and

3 (c) subtracting the total of the per-ANB amount
4 allowed by 20-9-316 through 20-9-321 that represents the
5 foundation program as prescribed by 20-9-303 plus the
6 per-ANB amount determined by dividing the state financing of
7 the district permissive levy by the ANB of the district,
8 from the amount determined in subsection (1)(b) above.

9 (2) The tuition for a full-time high school special
10 education pupil must be determined under rules adopted by
11 the superintendent of public instruction for the calculation
12 of tuition for full-time high school special education
13 pupils as designated in 20-9-311 for funding purposes.

14 ~~(2)(3)~~ Before July 15, the trustees shall report to
15 the county superintendent of the county in which the
16 district is located:

17 (a) the names, addresses, and resident districts of
18 the pupils attending the schools of the district under an
19 approved tuition agreement;

20 (b) the number of days of school attended by each
21 pupil;

22 (c) the amount, if any, of each pupil's tuition
23 payment that the trustees, in their discretion, shall have
24 the authority to waive; and

25 (d) the rate of current school fiscal year tuition, as

1 determined under the provisions of this section.

2 ~~(3)(4)~~ When the county superintendent receives a
3 tuition report from a district, he shall immediately send
4 the reported information to the superintendent of each
5 district in which the reported pupils reside.

6 ~~(4)(5)~~ When the district superintendent receives a
7 tuition report or reports for high school pupils residing in
8 his district and attending an out-of-district high school
9 under approved tuition agreements, he shall determine the
10 total amount of tuition due such out-of-district high
11 schools on the basis of the following per-pupil schedule:
12 the rate of tuition, number of pupils attending under an
13 approved tuition agreement, and other information provided
14 by each high school district where resident district pupils
15 have attended school.

16 ~~(5)(6)~~ The total amount of the high school tuition,
17 with consideration of any tuition waivers, for pupils
18 attending a high school outside the county of residence
19 shall be financed by the county basic special tax for high
20 schools as provided in 20-9-334. In December, the county
21 superintendent shall cause the payment by county warrant of
22 at least one-half of the high school tuition obligations
23 established under this section out of the first moneys
24 realized from the county basic special tax for high schools.
25 The remaining obligations must be paid by June 15 of the

1 school fiscal year. The payments shall be made to the county
 2 treasurer of the county where each high school entitled to
 3 tuition is located. The county treasurer shall credit such
 4 tuition receipts to the general fund of the applicable high
 5 school district, and the tuition receipts shall be used in
 6 accordance with the provisions of 20-9-141.

7 ~~6~~⁷ For pupils attending a high school outside
 8 their district of residence but within the county of
 9 residence, the total amount of the tuition, with
 10 consideration of any tuition waivers, must be paid during
 11 the ensuing school fiscal year. The trustees of the sending
 12 high school district shall include the tuition amount in the
 13 tuition fund of the preliminary and final budgets. This
 14 budgeted tuition amount is not subject to the budget
 15 adjustment provisions of 20-9-132. The county superintendent
 16 shall report the net tuition fund levy requirement for each
 17 high school district to the county commissioners on the
 18 second Monday of August, and a levy on the district shall be
 19 made by the county commissioners in accordance with
 20 20-9-142. This levy requirement shall be calculated by
 21 subtracting from the total expenditure amount authorized in
 22 the final tuition fund budget the sum of the cash balance in
 23 the tuition fund at the end of the immediately preceding
 24 school fiscal year plus any other anticipated money that may
 25 be realized in the tuition fund. The trustees shall pay by

1 warrants drawn on the tuition fund the tuition amounts owed
 2 to each district included in the county superintendent's
 3 notification. Payments shall be made whenever there is a
 4 sufficient amount of cash available in the tuition fund but
 5 no later than the end of the school fiscal year for which
 6 the budget is adopted. However, if the trustees of either
 7 the sending or receiving high school feel the transfer
 8 privilege provided by this subsection is being abused they
 9 may appeal to the county superintendent of schools who shall
 10 hold a hearing and either approve or disapprove the
 11 transfer."

-End-

95. 2010.01.01 ~ 2010.01.01

BILL NO.	REFER DATE	HEARING DATE	CONSIDERATION DATE	COMMITTEE ACTION	REFERRED TO COMM.	DATE OUT
HB0198	2/02	3/18	3/18	CONCUR 3/18		3/19
ROTH, RANDE REQUIRE TEACHERS/SPECIALISTS WITH CREDENTIALS TO REGISTER CERTIFICATES						
HB0263	2/10	3/13	3/13 3/16	CONCUR 3/16		3/16
BACHINI, BOB ALLOW SCHOOLS DISCRETION TO CHARGE A NONPUBLIC SCHOOLCHILD TO RIDE BUS						
HB0273	2/10	3/09	3/9	CONCUR 3/9		3/11
NELSON, RICHARD ALLOW OPI TO ADOPT RULES FOR TUITION FOR SPECIAL EDUCATION PUPILS						
HB0340	3/02	3/20	3/20	CONCUR AS AMENDED 3/20		3/20
DONALDSON, GENE REVISE METHOD OF CALCULATING THE AED OF A SCHOOL DISTRICT						
HB0349	2/02	3/09	3/9	CONCUR 3/9		3/10
HANNAH, TOM ALLOW EQUIPMENT REPAIR AS ALLOWABLE COST FOR SPECIAL EDUCATION PROGRAMS						
HB0356	3/02	3/23	3/23	CONCUR AS AMENDED 3/23		3/23
HARRINGTON, DAN CHANGE DATE WHEN SCHOOL TRUSTEES MUST NOTIFY TEACHER OF TERMINATION						
HB0365	2/21	3/18	3/18 3/20	CONCUR 3/20		3/20
PECK, RAY REQUIRE BOARD OF PUBLIC EDUCATION TO ADOPT RULES ON STUDENT ASSESSMENT						
HB0483	2/16	3/13	3/13	CONCUR 3/13		3/16
BRADLEY, DOROTHY REVISE ANTIQUITIES LAWS						
HB0511	2/23	3/09	3/9	CONCUR 3/9		3/10
DRISCOLL, JERRY REQUIRE SPECIAL EDUCATION PROGRAMS FOR 3-TO 6-YEAR-OLDS BY 1990						
HB0576	2/21	3/11	3/11/ 3/18	CONCUR 3/18		3/19
EUDAILY, RALPH DELETE THE WORD "ADDITIONAL" ON BALLOTS FOR SCHOOL LEVY ELECTIONS						
HB0619	3/02	3/23	3/23	CONCUR 3/23		3/23
GIACOMETTO, LEO ALLOW SCHOOL TRUSTEES GREATER DISCRETION IN WHERE DISTRICT MONEY IS INVESTED						

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

March 9, 1987

The nineteenth meeting of the Senate Education and Cultural Resources Committee was called to order by the chairman, Senator Bob Brown, at 1:00 p.m. in Room 402 of the State Capitol.

ROLL CALL: All committee members were present with the exception of Senator Smith.

CONSIDERATION OF HOUSE BILL 273: REPRESENTATIVE NELSON, District 6, sponsor of the bill, said the bill allows the Superintendent of Public Instruction to adopt rules for calculation of tuition for special education pupils. He said when students go from one district to another, tuition is paid to the new district and the amount is the same across the board. However, special education tuition is more, and this bill allows regulation of the rules to allow conformity with special education costs in tuition payments.

PROPOSERS: GAIL GRAY, Director of Special Education, OPI, presented testimony in support of the bill. (Exhibit 1).

CHRIS VOLINKATY, lobbyist for Developmentally Disabled People and Providers, expressed support for the bill.

MARILYN PEARSON, Special Education Advisory Council, expressed support for the bill on behalf of Dr. Linda Christensen, Chairperson of the Council. (Exhibit 1A).

OPPOSERS: There were no opposers.

DISCUSSION BY THE COMMITTEE: SENATOR BLAYLOCK and SENATOR NEUMAN asked Gail Gray who pays the extra special education costs over and above the regular tuition.

MS. GRAY replied the sending district pays the extra cost.

There being no further discussion, Rep. Nelson closed.

ROLL CALL

SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/9/87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BOB BROWN	✓		
SENATOR CHET BLAYLOCK	✓		
SENATOR GEORGE McCALLUM	✓		
SENATOR ED SMITH		✓	
SENATOR PAT REGAN	✓		
SENATOR JOE MAZUREK	✓		
SENATOR BILL FARRELL	✓		
SENATOR TED NEUMAN	✓		
SENATOR DICK PINSONEAULT	✓		
SENATOR SWEDE HAMMOND	✓		

Each day attach to minutes.

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Ann H. Taylor	DD / SRS	HB 511	✓	
Ken Rohyans		HB 511	✓	
Judith L. Edwards	Billings Schl. Dist. #1	HB 511	✓	
Carole Palmer	Exchange Teacher From England		✓	
Tom Nelson	H.P. #6	HB 273	✓	
Alicia Hickle	Helena	HB 511	✓	
Dave Bennett	Clancy	HB 511	✓	
Kathy Kelker	Billings	HB 511	✓	
Terri Benson	Helena	HB 511	✓	
Becky Rohyans	"	"	✓	
Gay M. York	Mental Health Assn. of MT	"	✓	
Pat Conant	Bozeman	HB 511	✓	
Bab LaBrie	Haure	HB 511	✓	
Mellie Shurt	Lure	HB 511	✓	
Tina Vassher	Crow Head Start	HB 511	✓	
Chris Valenkaty	DD	HB 511	✓	
		273	✓	
		175	✓	
		349	✓	
KATHIE HORESSI	MFT	HB 511	X	
Pat Lapp	OPD	HB 511	✓	
	✓	349	✓	
	✓	175	✓	
	✓	273	✓	
Melissa Pearson	At. Spec. Educ. Advisory Panel	511	✓	
		273	✓	

(Please leave prepared statement with Secretary)



SENATE EDUCATION

EXHIBIT NO. 1**OFFICE OF PUBLIC INSTRUCTION**STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095BILL NO. H.B. 273 Ed Argenbright
Superintendent

March 9, 1987

To: Senator Bob Brown, Chairman
Senate Education and Cultural Resources Committee

From: Gail Gray
Director of Special Education

Re: House Bill 273

Full-time special education students are those who spend less than half their time in the regular program and the balance of their time in the special education program. (20-9-311(2)MCA). These students do not generate ANB (average number belonging), the basic funding unit for state education funds.

Handicapped students cost more to educate than do nonhandicapped students. This is particularly true for students who are considered full-time special education students. Due to sparsity of population and specialized needs of handicapped students, some districts find it more appropriate in terms of program and cost efficiency to place handicapped students in districts other than their own. At this time, the statutes which include calculation of tuition require that at the elementary level if one student is charged tuition, all must be charged and all are charged the same amount. This amount is determined by a statutory formula. At the high school level, trustees of the receiving district may waive a portion of the regular tuition but the statute does not allow trustees to add additional costs for a particular student's needs. This is further complicated by the fact that full-time special education students do not generate ANB for the school of attendance. The result is that they have special needs that are more expensive than nonhandicapped students and they do not even generate the basic state education funding.

In times of fiscal constraint, these situations cause districts to question the wisdom of accepting full-time special education students who are not residents of their district. To encourage the continual acceptance of out-of-district students, this bill proposes that the Superintendent of Public Instruction be allowed the authority to promulgate rules for the calculation of elementary and high school tuition for full-time elementary and high school students. These formulas would be the sum of the regular tuition and the excess costs of educating the students in the proposed district of service. The excess costs would be those costs not paid by state or federal special education funds.

DATE 3/9/87
BILL NO. HB 373

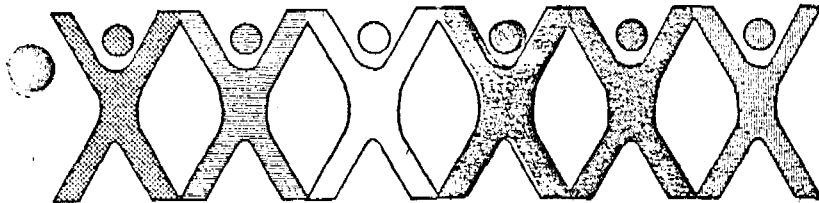
March 9, 1987
Page 2

We are most interested in having appropriate special education programs that are cost efficient. This has been done in communities like Kalispell, Great Falls and Billings. These districts may not continue to accept students from districts other than their own if there is no mechanism to recover the excess costs of the program. The cost of starting a special education program for moderately and severely handicapped students in very small schools is prohibitive.

We would urge your careful consideration of this bill.

GG:mf

Montana
SPECIAL EDUCATION ADVISORY PANEL



OFFICE OF PUBLIC INSTRUCTION • ED ARGENBRIGHT, SUPERINTENDENT

March 9, 1987

TO: Members of the Senate Education Committee
State Capitol
Helena, Montana 59620

FROM: Dr. Linda Christensen, Chairperson
Montana Special Education Advisory Committee

A bill for an act entitled: "An Act to Modify the Calculations of Elementary and High School Tuition for Full-Time Special Education Students by Amending Section 20-5-305, MCA."

This bill allows for a fair calculation of tuition for special education students who attend a school outside their home district. The Montana Special Education Advisory Panel fully endorses this bill and urges your support.

SENATE EDUCATION.

FILE NO. 1A

DATE 3/9/87

BY H/O 273

1 STATEMENT OF INTENT

2 HOUSE BILL 273

3
4 A statement of intent is required for this bill because
5 it allows the superintendent of public instruction to adopt
6 rules for the calculation of tuition for full-time special
7 education pupils. The legislature recognizes that special
8 education pupils are not considered in the count of average
9 number belonging (ANB) for a district and generate more
10 costs than the regular ANB. Therefore, such pupils
11 necessitate a more individualized calculation for
12 determining education costs that can be used for tuition
13 purposes.

14 It is the intent of the legislature that the
15 superintendent of public instruction adopt rules that:

16 (1) help school districts determine the cost of
17 education for various types of special education pupils for
18 tuition purposes; and

19 (2) consider a district's excess costs beyond what is
20 funded by state and federal sources.

1 HOUSE BILL NO. 273

2 INTRODUCED BY NELSON

3 BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE
6 SUPERINTENDENT OF PUBLIC INSTRUCTION TO ADOPT RULES FOR THE
7 CALCULATION OF TUITION FOR SPECIAL EDUCATION PUPILS; AND
8 AMENDING SECTIONS 20-5-305 AND 20-5-312, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 20-5-305, MCA, is amended to read:

12 "20-5-305. Elementary tuition rates. (1) Whenever a
13 pupil of an elementary district has been granted approval to
14 attend a school outside of the district in which he resides,
15 under the provisions of 20-5-301 or 20-5-302, such district
16 shall pay tuition to the elementary district where the pupil
17 attends school. on Except as provided in subsection (2), the
18 basis of the rate of tuition shall be determined by the
19 attended district. The rate of tuition shall be determined
20 by:

21 (1)(a) totaling the actual expenditures from the
22 district general fund, the debt service fund, and, if the
23 pupil is a resident of another county, the retirement fund;

24 (2)(b) dividing the amount determined in subsection
25 (1)(a) above by the ANB of the district for the current

1 fiscal year, as determined under the provisions of 20-9-311;
2 and

3 (3)(c) subtracting the total of the per-ANB amount
4 allowed by 20-9-316 through 20-9-321 that represents the
5 foundation program as prescribed by 20-9-303 plus the
6 per-ANB amount determined by dividing the state financing of
7 the district permissive levy by the ANB of the district,
8 from the amount determined in subsection (2)-above (1)(b).

9 (2) The tuition for a full-time elementary special
10 education pupil must be determined under rules adopted by
11 the superintendent of public instruction for the calculation
12 of elementary tuition for full-time elementary special
13 education pupils as designated in 20-9-311 for funding
14 purposes."

15 Section 2. Section 20-5-312, MCA, is amended to read:

16 "20-5-312. Reporting, budgeting, and payment for high
17 school tuition. (1) At Except as provided in subsection (2),
18 at the close of the school term of each school fiscal year,
19 the trustees of each high school district shall determine
20 the rate of tuition for the current school fiscal year by:

21 (a) totaling the actual expenditures from the district
22 general fund, the debt service fund, and, if the pupil is a
23 resident of another county, the retirement fund;

24 (b) dividing the amount determined in subsection
25 (1)(a) above by the ANB of the district for the current

1 fiscal year, as determined under the provisions of 20-9-311;
2 and

3 (c) subtracting the total of the per-ANB amount
4 allowed by 20-9-316 through 20-9-321 that represents the
5 foundation program as prescribed by 20-9-303 plus the
6 per-ANB amount determined by dividing the state financing of
7 the district permissive levy by the ANB of the district,
8 from the amount determined in subsection (1)(b) above.

9 (2) The tuition for a full-time high school special
10 education pupil must be determined under rules adopted by
11 the superintendent of public instruction for the calculation
12 of tuition for full-time high school special education
13 pupils as designated in 20-9-311 for funding purposes.

14 ~~(2)~~(3) Before July 15, the trustees shall report to
15 the county superintendent of the county in which the
16 district is located:

17 (a) the names, addresses, and resident districts of
18 the pupils attending the schools of the district under an
19 approved tuition agreement;

20 (b) the number of days of school attended by each
21 pupil;

22 (c) the amount, if any, of each pupil's tuition
23 payment that the trustees, in their discretion, shall have
24 the authority to waive; and

25 (d) the rate of current school fiscal year tuition, as

1 determined under the provisions of this section.

2 ~~(3)~~(4) When the county superintendent receives a
3 tuition report from a district, he shall immediately send
4 the reported information to the superintendent of each
5 district in which the reported pupils reside.

6 ~~(4)~~(5) When the district superintendent receives a
7 tuition report or reports for high school pupils residing in
8 his district and attending an out-of-district high school
9 under approved tuition agreements, he shall determine the
10 total amount of tuition due such out-of-district high
11 schools on the basis of the following per-pupil schedule:
12 the rate of tuition, number of pupils attending under an
13 approved tuition agreement, and other information provided
14 by each high school district where resident district pupils
15 have attended school.

16 ~~(5)~~(6) The total amount of the high school tuition,
17 with consideration of any tuition waivers, for pupils
18 attending a high school outside the county of residence
19 shall be financed by the county basic special tax for high
20 schools as provided in 20-9-334. In December, the county
21 superintendent shall cause the payment by county warrant of
22 at least one-half of the high school tuition obligations
23 established under this section out of the first moneys
24 realized from the county basic special tax for high schools.
25 The remaining obligations must be paid by June 15 of the

1 school fiscal year. The payments shall be made to the county
2 treasurer of the county where each high school entitled to
3 tuition is located. The county treasurer shall credit such
4 tuition receipts to the general fund of the applicable high
5 school district, and the tuition receipts shall be used in
6 accordance with the provisions of 20-9-141.

7 ~~f6~~(7) For pupils attending a high school outside
8 their district of residence but within the county of
9 residence, the total amount of the tuition, with
10 consideration of any tuition waivers, must be paid during
11 the ensuing school fiscal year. The trustees of the sending
12 high school district shall include the tuition amount in the
13 tuition fund of the preliminary and final budgets. This
14 budgeted tuition amount is not subject to the budget
15 adjustment provisions of 20-9-132. The county superintendent
16 shall report the net tuition fund levy requirement for each
17 high school district to the county commissioners on the
18 second Monday of August, and a levy on the district shall be
19 made by the county commissioners in accordance with
20 20-9-142. This levy requirement shall be calculated by
21 subtracting from the total expenditure amount authorized in
22 the final tuition fund budget the sum of the cash balance in
23 the tuition fund at the end of the immediately preceding
24 school fiscal year plus any other anticipated money that may
25 be realized in the tuition fund. The trustees shall pay by

1 warrants drawn on the tuition fund the tuition amounts owed
2 to each district included in the county superintendent's
3 notification. Payments shall be made whenever there is a
4 sufficient amount of cash available in the tuition fund but
5 no later than the end of the school fiscal year for which
6 the budget is adopted. However, if the trustees of either
7 the sending or receiving high school feel the transfer
8 privilege provided by this subsection is being abused they
9 may appeal to the county superintendent of schools who shall
10 hold a hearing and either approve or disapprove the
11 transfer."

-End-